



RAVALLI COUNTY ATTORNEY

George H. Corn, County Attorney
T. Geoffrey Mahar, Chief Deputy
John Bell, Deputy
Karen Mahar, Deputy
William E. Fulbright, Deputy
Alex Beal, Deputy

Ravalli County Courthouse
205 Bedford, Suite C
HAMILTON, MT 59840-2853
Phone (406) 375-6750
Fax (406) 375-6731

MEMORANDUM

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FEB 27 2008

Ravalli County Commissioners

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TO: Lea Jordan, Environmental Health Department
Karen Hughes, Planning

FROM: George H. Corn *GC*

CC: Ravalli County Commissioners

what enclosures

DATE: February 27, 2008

RE: Enforcement

As you know, we have had several discussions regarding how we address this issue, which is becoming more important as the county grows. In addition to our conversations, I have had at least two meetings with the Commissioners over the last couple of years because they recognize the issue as well. The crux of the problem seems to be one of staffing for both your offices and mine.

To help understand these staffing needs I thought it would be helpful for you to review the attached material of specific cases my office has handled in the past. I hope that this material will give you an idea of what resources are necessary for investigation and prosecution in enforcement actions, whether they be civil or criminal.

1. *(3 pgs)* Memo from John Bell to Bruce Hunter. This memo was sent in either late 2005 or early 2006. While it concerns a specific case, in doing so it also outlines the information necessary to prosecute a case of a public nuisance. On that note, be aware that although the County has a community decay

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ordinance, it was unconstitutional the day it was written. The Commissioners have been informed of this periodically over the years. Accordingly, when these cases are referred to us, we prosecute them as a public nuisance.

- (4 pgs.)
2. Memo from John Bell to me regarding alleged environmental infractions by Jay Gasvoda and letter from me to the Commissioners dated January 25, 2005, concerning the same. As you can see, we could not sue Mr. Gasvoda civilly due to the past actions of the County Commissioners. Nevertheless, John's memo is useful because it also details the investigative work necessary to successfully prosecute a case such as this.

- (7 pgs.)
3. Ravalli County Health Board v. Len Wallace. In this case, Mr. Wallace began constructing a house that required a sewage disposal without getting a septic permit. After this was discovered, he failed repeatedly to work with the County Sanitarian to obtain one. The County Health Board (Commissioner Grandstaff was a member) requested assistance. I filed suit and applied for a Notice of Application for Preliminary Injunction, which was granted by Judge Langton who issued an Order granting it on November 10, 1998. The effect was to shut down construction on the project since continuing would have placed him in contempt of court, which even in a civil action can result in a jail sentence. At that point, Mr. Wallace became reasonable and coming into compliance with our regulations. He also paid a fine of \$2,500.00 to the County.

- (19 pgs.)
4. State v. Shook—I have attached only the Complaint, Response and Settlement Agreement. As you know this was a floodplain enforcement action, which took an extensive amount of time to resolve. James, Alex and I believe it took at least 80 hours of attorney time.

I hope this information is helpful to you. Let me know when you wish to discuss it again.